

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: FAIRFIELD SENTRY LIMITED, et al., Debtor in Foreign Proceedings.	Chapter 15 Case Case No. 10-13164 (CGM) Jointly Administered
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al., Plaintiffs, v. ABN AMRO SCHWEIZ AG, et al., Defendants.	Adv. Pro. No. 10-03635 (CGM)
FAIRFIELD SENTRY LTD. (IN LIQUIDATION), et al., Plaintiffs, v. ABN AMRO SCHWEIZ AG, et al., Defendants.	Adv. Pro. No. 10-03636 (CGM)

**DECLARATION OF DAVID S. FLUGMAN IN SUPPORT OF THE LIQUIDATORS’
OPPOSITION TO DEFENDANT DEXIA BANQUE INTERNATIONALE À
LUXEMBOURG SA’S MOTION TO DISMISS**

I, David S. Flugman, do hereby declare, under penalty of perjury under the laws of the United States of America, that the following is true and correct to the best of my knowledge and belief:

1. I am a member of the law firm of Selendy Gay Elsberg PLLC, counsel for Kenneth M. Krys and Greig Mitchell (together, the “Liquidators”), in their capacities as the duly appointed Liquidators and Foreign Representatives of Fairfield Sentry Limited (In Liquidation) and Fairfield Sigma Limited (In Liquidation). I submit this Declaration in support of the Liquidators’ opposition (“Opposition”), filed contemporaneously herewith, to Defendant Dexia Banque Internationale à Luxembourg SA’s (“BIL”) motion to dismiss for personal jurisdiction.

2. Unless otherwise noted, all exhibits attached to this declaration have been filed under seal pursuant to this Court’s Order Granting the Parties’ Motion to File Under Seal Certain Exhibits and to File Redacted Personal Jurisdiction Briefs, dated March 27, 2023 (10-ap-03635, Dkt. 1016; 10-ap-03636, Dkt. 1103).

3. For the convenience of the Court, the Liquidators have annotated certain exhibits with red boxes to highlight specific information, as indicated below.

4. Attached as Exhibit 1 is a true and correct copy with annotations of Sentry redemption order confirmations, dated July 18, 2007 and July 19, 2007; and Sentry redemption requests, dated July 17, 2007, which were produced to the Liquidators by non-party Citco Fund Services (Europe) B.V. (“Citco Fund Services”) with starting Bates number CFSE-LIQ-00082969. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 1.

5. Attached as Exhibit 2 is a true and correct copy with annotations of a confirmation of transfer of Sentry shares to BIL, dated March 19, 2004, which was produced to the Liquidators by non-party Citco Record Holders,¹ with starting Bates number CitcoRedeemer_02096224.

¹ “Citco Record Holders” collectively refers to Citco Global Limited, Citco Bank Nederland N.V., Citco Bank Nederland N.V. Dublin Branch, Citco Global Custody N.V., Citco Banking

Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 2.

6. Attached as Exhibit 3 is a true and correct copy with annotations of a Sentry subscription request, dated March 21, 2005, which was produced to the Liquidators by non-party Citco Record Holders as CitcoRedeemer_02053724. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 3.

7. Attached as Exhibit 4 is an English language version of a true and correct copy of a BIL memorandum, dated October 8, 2003, which was produced to the Liquidators by BIL with starting Bates number BIL000075, accompanied by a certificate of translation from the original French version. Pages bearing Bates numbers BIL000102-104 were translated; the remaining pages are a true and correct copy of the original. The original French language version of the pages bearing Bates numbers BIL00102-104 have been excerpted and are attached as Exhibit 4-1.

8. Attached as Exhibit 5 is an English language version of a true and correct copy of email exchanges attaching due diligence materials, with various dates, which were produced to the Liquidators by BIL with starting Bates number BIL000105, accompanied by certificates of translation from the original French version. Pages bearing Bates numbers BIL000105, BIL000317, and BIL000503-504 were translated; the remaining pages are a true and correct copy of the original. The original French language version of the pages bearing Bates numbers BIL000105, BIL000317, and BIL000503-504 have been excerpted and are attached as Exhibit 5-

Corporation N.V., and Citco Global Custody (NA) N.V., which made a joint production in response to the Liquidators' subpoenas.

1. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 5.

9. Attached as Exhibit 6 is a true and correct copy of an email exchange, dated June 18, 2004, which was produced to the Liquidators by non-party Citco Fund Services with starting Bates number ANWAR-C-ESI-00147641. Exhibit 6 includes the attachment to this email, a Sentry Private Placement Memorandum, dated July 1, 2003, which was produced to the Liquidators by non-party Citco Fund Services with starting Bates number ANWAR-C-ESI-00147643. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 6.

10. Attached as Exhibit 7 is a true and correct copy of an email exchange, dated July 18, 2007, which was produced to the Liquidators by non-party Citco Fund Services with starting Bates number ANWAR-C-ESI-00602905. Exhibit 7 includes the attachments to this email: a Citco Funds screenshot, undated, with Bates number ANWAR-C-ESI-00602912; and a Sentry Private Placement Memorandum, dated October 1, 2004, with starting Bates number ANWAR-C-ESI-00602913. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 7.

11. Attached as Exhibit 8 is a true and correct copy of a Master Custodian Agreement, dated February 19, 2004, which was produced to the Liquidators by non-party Citco Record Holders with starting Bates number CitcoRedeemer_02181931.

12. Attached as Exhibit 9 is a true and correct copy of a Brokerage and Custody Agreement, dated May 29, 2007, which was produced to the Liquidators by non-party Citco Record Holders with starting Bates number CitcoRedeemer_02182061.

13. Attached as Exhibit 10 is a true and correct copy with annotations of a file of BIL transactional documents, dated between March 18, 2005 and August 22, 2007, which was produced to the Liquidators in redacted form by BIL with starting Bates number BIL000001 as part of a larger email family. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 10.

14. Attached as Exhibit 11 is a true and correct copy with annotations of a Sentry redemption request, dated July 17, 2007, which was produced to the Liquidators by non-party Citco Fund Services with starting Bates number ANWAR-CFSE-00173069. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 11.

15. Attached as Exhibit 12 is a true and correct copy of a Sentry redemption order confirmation, dated May 2, 2005, which was produced to the Liquidators by non-party Citco Fund Services as CFSE-LIQ-00317498. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 12.

16. Attached as Exhibit 13 is a true and correct copy with annotations of a Sentry redemption request, dated April 27, 2005, which was produced to the Liquidators by non-party Citco Record Holders as CitcoRedeemer_02076854. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 13.

17. Attached as Exhibit 14 is an English language version of a true and correct copy of a BIL Client Agreement, dated November 13, 2001, which was produced to the Liquidators in redacted form by BIL as BIL000540, accompanied by a certificate of translation from the original French version. The original French language version is attached as Exhibit 14-1.

18. Attached as Exhibit 15 is an English language version of a true and correct copy of a BIL Account Statement, dated April 22, 2005, which was produced to the Liquidators in redacted form by BIL as BIL000615 and as part of a larger document family, accompanied by a certificate of translation from the original French version. The Liquidators have intentionally omitted documents from this family that are not cited in the Opposition. The original French language version is attached as Exhibit 15-1. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 15.

19. Attached as Exhibit 16 is an English language version of a true and correct copy of a BIL Account Statement, dated January 5, 2007, which was produced to the Liquidators in redacted form by BIL as BIL000640 and as part of a larger document family, accompanied by a certificate of translation from the original French version. The original French language version is attached as Exhibit 16-1. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 16.

20. Attached as Exhibit 17 is a true and correct copy of an email exchange, dated August 11, 2006, which was produced to the Liquidators by non-party Fairfield Greenwich Group (“FGG”) with starting Bates number FG-00264536.

21. Attached as Exhibit 18 is a true and correct copy with annotations of a Sentry wire record, dated June 15, 2005, which was produced to the Liquidators by non-party Citco Fund Services as CFSE-LIQ-00317492. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 18.

22. Attached as Exhibit 19 is a true and correct copy of Sentry wire record, dated August 15, 2007, and a Sentry redemption checklist, undated, which were produced to the Liquidators by non-party Citco Fund Services with starting Bates number CFSE-LIQ-00546322.

Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 19.

23. Attached as Exhibit 20 is a true and correct copy of email exchanges and transactional documents for a Sentry subscription, dated between April 26, 2004, and October 25, 2004, which were produced to the Liquidators by non-party Citco Fund Services with starting Bates number CFSE-LIQ-00245945. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 20.

24. Attached as Exhibit 21 is a true and correct copy of a long form Sentry subscription agreement, dated July 3, 2007, which was produced to the Liquidators by non-party Citco Fund Services with starting Bates number CFSE-LIQ-00091639. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 21.

25. Attached as Exhibit 22 is an English language version of a true and correct copy of an email exchange attaching Sentry due diligence materials, dated May 25, 2005, which was produced to the Liquidators by non-party FGG with starting Bates number FG-05791688, accompanied by a certificate of translation from the original French version. The page bearing Bates number FG-05791688 was translated; the remaining pages are a true and correct copy of the original. Exhibit 22 includes the attachments to this email, which were produced to the Liquidators by non-party Citco Fund Services with starting Bates numbers FG-05791690, and FG-05791692, and FG-05791694. The original French language version of FG-05791688 is attached as Exhibit 22-1.

26. Attached as Exhibit 23 is an English language version of a true and correct copy of an email exchange attaching Sentry due diligence materials, dated November 21, 2006, which was

produced to the Liquidators by non-party FGG with starting Bates number FG-05788067, accompanied by a certificate of translation from the original French version. The page bearing Bates number FG-05788067 was translated; the remaining pages are a true and correct copy of the original. Exhibit 23 includes the attachments to this email, which were produced to the Liquidators by non-party Citco Fund Services with starting Bates numbers FG-05788069, FG-05788088, and FG-05788090. The original French language version of FG-05788067 is attached as Exhibit 23-1.

27. Attached as Exhibit 24 is a true and correct copy with annotations of Sentry subscription records, with various dates, which were produced to the Liquidators by non-party Citco Fund Services with starting Bates number CFSE-LIQ-00321162. Pursuant to Federal Rule of Bankruptcy Procedure 9037, the Liquidators have redacted nonpublic personal information contained in Exhibit 24.

28. Attached as Exhibit 25 is a true and correct copy a Sentry account statement, dated July 24, 2004, which was produced to the Liquidators by non-party Citco Record Holders as CitcoRedeemer_02051692.

29. Attached as Exhibit 26 is a true and correct copy of an email exchange, dated June 21, 2005, which was produced to the Liquidators by non-party Citco Record Holders with starting Bates number CitcoRedeemer_02158174.

30. Attached as Exhibit 27 is a true and correct copy of an email exchange, dated June 8, 2005, which was produced to the Liquidators by non-party FGG with starting Bates number FG-00188318.

31. Attached as Exhibit 28 is a true and correct copy of an email exchange attaching due diligence, dated June 9, 2005, which was produced to the Liquidators by non-party FGG with starting Bates number FG-01318797. Exhibit 28 includes the attachments to this email, which were

produced to the Liquidators by non-party FGG with starting Bates numbers FG-01318799, FG-01318829, FG-01318841, FG-01318843, FG-01318847, FG-01318849, and FG-01318872.

32. Attached as Exhibit 29 is a true and correct copy of the transcript of the Rule 30(b)(6) Deposition of Banque Internationale à Luxembourg SA, dated December 14, 2022 (the “Rule 30(b)(6) Deposition”). A partially redacted copy of the Rule 30(b)(6) Deposition has been previously filed publicly at 10-ap-03635, Dkt. 1003-2; 10-ap-03636, Dkt. 1090-2.

33. Attached as Exhibit 30 is a true and correct copy of the Sentry Articles of Association, dated October 10, 2003, which was filed in *Fairfield Sentry Limited (In Liquidation) et al. v. Theodoor GGC Amsterdam et al.*, 1:10-ap-03496 as ECF No. 925-6. The Liquidators are filing Exhibit 30 on the docket and not under seal.

Dated: New York, New York
May 2, 2023

/s/ David S. Flugman
David S. Flugman